

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

2018 JUN -6 PM 2:48

UNITED STATES OF AMERICA

v.

FRANK H. BYNES, JR.

INDICTMENT NO.

CLERK
SO. DIST. OF GA.

Counts 1-39:

21 U.S.C. § 841(a)(1)

**Unlawful Dispensation of
Controlled Substances**

Counts 40-48:

18 U.S.C. § 1347

Health Care Fraud

Forfeiture Allegation

CR 4 18-153

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to the conduct in this Indictment:

1. Dr. Frank H. Bynes, Jr. ("**BYNES**") was a licensed physician who purportedly worked as an internal medicine physician at several clinics within the Southern District of Georgia. While working at these clinics, **BYNES** wrote massive numbers of prescription narcotics and other controlled substances, including a cocktail of opioids (oxycodone, hydrocodone, etc.), benzodiazepines (alprazolam), and carisoprodol (Soma), which is commonly known as the "Holy Trinity," "Unholy Trinity," or "Houston Cocktail." This "cocktail" of controlled substances is a high-risk combination because of the risk of overdose or death. Health care benefit programs, including Medicaid, paid for these prescriptions unlawfully written by **BYNES**.

2. **BYNES** knowingly and intentionally distributed and dispensed, and caused to be distributed and dispensed, controlled substances that were not prescribed for a legitimate medical purpose and which were not distributed and dispensed in the usual course of professional practice in one or more of the following manners:

- a. Without adequate verification of the patient's medical condition;
- b. Without adequate and reliable patient medical history to verify the accuracy of the patient's statements to the physician or other clinic personnel;
- c. Without performance of a complete or adequate physical or neurological examination;
- d. Without establishment of a true diagnosis;
- e. Without the use of appropriate diagnostic or laboratory testing;
- f. Without sufficient dialogue with the patient regarding treatment options (such as physical therapy or surgery), and risks and benefits of such treatments;
- g. Without establishing a treatment plan;
- h. Without consideration of or discussion with the patient regarding alternatives to treatment other than controlled substances;
- i. Without referral of the patient to a specialist in an effort to identify and correct the patient's alleged pain, or treat the patient for psychological dysfunctions by, for example, addiction counseling;

- j. Without any assessment of an individual patient's risk of abuse of controlled substances; and
- k. By prescribing inappropriate combinations of drugs to patients;
- l. Beginning no later than June 2015 and at various times since then, by engaging in or after having engaged in unprofessional conduct with female patients.

Federal Controlled Substance Laws and Regulations

3. The Controlled Substances Act, 21 U.S.C. § 801 et seq. ("CSA"), governs the manufacture, distribution, and dispensing of controlled substances in the United States.

4. The CSA and its implementing regulations set forth which drugs and other substances are defined by law as "controlled substances," and those controlled substances are then assigned to one of five schedules (Schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

5. With limited exceptions, the CSA makes it "unlawful for any person knowingly or intentionally ... to manufacture, distribute, or dispense ... a controlled substance," or conspire to do so. Medical practitioners authorized to prescribe or dispense controlled substances by the jurisdiction in which they are licensed to practice medicine are authorized under the CSA to write prescriptions for, or otherwise dispense, controlled substances if they obtain a registration from the

Attorney General of the United States. 21 U.S.C. § 822(b); 21 C.F.R. § 290.1. Pursuant to Title 21 of the Code of Federal Regulations, Section 1306.04(a), medical practitioners registered with the DEA may lawfully issue a prescription for a controlled substance only if the prescription is “issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.”

Federal Health Care Fraud and Abuse Laws and Regulations

6. The Georgia Medicaid Program, a “health care benefit program” as defined by 18 U.S.C § 24, provides benefits to certain low-income individuals and families in Georgia. Georgia Medicaid is funded by both the federal government and through state funds. Medicaid is administered, at the federal level, by the United States Department of Health and Human Services (“HHS”) through its agency, the Centers for Medicare and Medicaid Services (“CMS”). In Georgia, Medicaid is administered by the Georgia Department of Community Health (“GDCH”).

7. Individuals who receive benefits under Georgia Medicaid are commonly referred to as “beneficiaries” or “recipients.”

8. A Medicaid “provider” is any organization, institution, or individual that provides health care services, items, and benefits, to beneficiaries for which payments may be made by a health care benefit program.

9. A physician who issues a prescription for a beneficiary to obtain controlled substances provides a health care service, item, or benefit.

10. A provider can submit bills, known as “claims,” in order to obtain reimbursement for items or services provided to beneficiaries. Claims to Medicaid are typically submitted electronically and require certain information, including (a) the beneficiary’s name and identification number, (b) identification of the benefit, item, or service provided or supplied to the beneficiary, (c) the billing code for the benefit, item, or service, (d) the date upon which the benefit, item, or health services was provided, and (e) the name and National Provider Identifier (“NPI”) of the physician that ordered the service, treatment, benefit, or item.

11. When a provider issues a prescription for a drug to a beneficiary, the beneficiary commonly has that prescription filled by a retail pharmacy. The retail pharmacy, in turn, will submit a claim to the beneficiary’s health care benefit program to be reimbursed for the drug dispensed. The claim submitted by the pharmacy contains the ordering practitioner’s NPI.

12. To qualify for payment, the health care benefit, item, or service must have been medically necessary and otherwise comply with all applicable federal and state laws. For prescriptions, this requires a valid prescription issued for a legitimate medical purpose by an authorized individual practitioner acting in the usual course of his professional practice.

COUNT 1 THROUGH 6

Unlawful Dispensation Of Controlled Substances

21 U.S.C. § 841(a)(1)

13. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

14. From on or about May 2016 and continuing through on or about February 2017, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, controlled substances, to wit: hydrocodone, a Schedule II controlled substance; alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule IV controlled substance; and others as listed below, all to S.P., by issuing prescriptions not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned "pill mill," in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
1	S.P.	Jan 2, 2017	Alprazolam 2 MG	120	IV
2	S.P.	Jan 2, 2017	Oxycodone HCL 30 MG	120	II
3	S.P.	Jan 10, 2017	Carisoprodol 350 MG	90	IV
4	S.P.	Jan 10, 2017	Dextroamp-amphetamin 30 MG	90	II
5	S.P.	Jan 16, 2017	Hydrocodone-Chlorphen ER SUSP	230	II

Count	Patient	Date	Controlled Substance	Quantity	Schedule
6	S.P.	Jan 21, 2017	Hydrocodone combination product 10-325	240	II

COUNT 7 THROUGH 12
Unlawful Dispensation Of Controlled Substances
 21 U.S.C. § 841(a)(1)

15. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

16. From on or about July 2015 and continuing through on or about September 2017, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, controlled substances, to wit: oxycodone, a Schedule II controlled substance; alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule IV controlled substance; and others as listed below, all to D.S., by issuing prescriptions not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned “pill mill,” in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
7	D.S.	Nov 14, 2015	Alprazolam 2 MG	30	IV
8	D.S.	Nov 14, 2015	Alprazolam 2 MG	90	IV

Count	Patient	Date	Controlled Substance	Quantity	Schedule
9	D.S.	Nov 14, 2015	Carisoprodol 350 MG	90	IV
10	D.S.	Nov 14, 2015	Dextroamp-amphetamin 30 MG	60	II
11	D.S.	Nov 14, 2015	Oxycodone HCL 30 MG	120	II
12	D.S.	Nov 16, 2015	Fentanyl 50 MCG/HR Patch	10	II

COUNT 13 THROUGH 17
Unlawful Dispensation Of Controlled Substances
 21 U.S.C. § 841(a)(1)

17. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

18. From on or about October 2015 and continuing through on or about September 2016, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, controlled substances, to wit: oxycodone, a Schedule II controlled substance; alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule IV controlled substance; and others as listed below, all to A.D., by issuing prescriptions not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned “pill mill,” in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
13	A.D.	Oct 20, 2015	Alprazolam 2 MG	90	IV
14	A.D.	Oct 20, 2015	Carisoprodol 350 MG	90	IV
15	A.D.	Oct 20, 2015	Dextroamp-amphetamin 30 MG	60	II

Count	Patient	Date	Controlled Substance	Quantity	Schedule
16	A.D.	Oct 20, 2015	Oxycodone HCL 15 MG	120	II
17	A.D.	Oct 20, 2015	Oxycodone HCL 30 MG	120	II

COUNT 18 THROUGH 28
Unlawful Dispensation Of Controlled Substances
21 U.S.C. § 841(a)(1)

19. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

20. From on or about July 2015 and continuing through on or about April 2016, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, controlled substances, to wit: oxycodone, a Schedule II controlled substance; alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule IV controlled substance; and others as listed below, all to G.L., by issuing prescriptions not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned “pill mill,” in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
18	G.L.	Mar 3, 2016	Oxycodone combination product 10-325	120	II
19	G.L.	Mar 4, 2016	Oxycodone HCL 15 MG	120	II
20	G.L.	Mar 5, 2016	Alprazolam 2 MG	120	IV

Count	Patient	Date	Controlled Substance	Quantity	Schedule
21	G.L.	Mar 5, 2016	Dextroamp-amphetamin 30 MG	60	II
22	G.L.	Mar 7, 2016	Oxycodone HCL 30 MG	120	II
23	G.L.	Mar 10, 2016	Carisoprodol 350 MG	90	IV
24	G.L.	Mar 17, 2016	Oxycodone combination product 10-325	120	II
25	G.L.	Mar 23, 2016	Alprazolam 2 MG	120	IV
26	G.L.	Mar 23, 2016	Oxycodone HCL 15 MG	120	II
27	G.L.	Mar 23, 2016	Oxycodone HCL 30 MG	120	II
28	G.L.	Mar 28, 2016	Dextroamp-amphetamin 30 MG	60	II

COUNT 29 THROUGH 33
Unlawful Dispensation Of Controlled Substances
 21 U.S.C. § 841(a)(1)

21. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

22. From on or about July 2015 and continuing through on or about September 2017, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, controlled substances, to wit: oxycodone, a Schedule II controlled substance; alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule IV controlled substance; and others as listed below, all to C.S., by issuing prescriptions not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned “pill mill,” in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
29	C.S.	Sep 1, 2017	Alprazolam 2 MG	90.0	IV
30	C.S.	Sep 1, 2017	Carisoprodol 350 MG	90.0	IV

Count	Patient	Date	Controlled Substance	Quantity	Schedule
31	C.S.	Sep 1, 2017	Oxycodone HCL 15 MG	120.0	II
32	C.S.	Sep 1, 2017	Oxycodone HCL 30 MG	120.0	II
33	C.S.	Sep 1, 2017	Zolpidem Tartrate 10 MG	30.0	IV

COUNTS 34 THROUGH 38
Unlawful Dispensation Of Controlled Substances
 21 U.S.C. § 841(a)(1)

23. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

24. From on or about August 2015 and continuing through on or about September 2017, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, controlled substances, to wit: oxycodone, a Schedule II controlled substance; alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule IV controlled substance; and others as listed below, all to M.B., by issuing prescriptions not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned "pill mill," in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
34	M.B.	Sep 18, 2017	Alprazolam 2 MG	90.0	IV
35	M.B.	Sep 18, 2017	Carisoprodol 350 MG	90.0	IV

Count	Patient	Date	Controlled Substance	Quantity	Schedule
36	M.B.	Sep 18, 2017	Dextroamp- amphetamin 30 MG	60.0	II
37	M.B.	Sep 18, 2017	Oxycodone HCL 15 MG	120.0	II
38	M.B.	Sep 18, 2017	Oxycodone HCL 30 MG	120.0	II

COUNT 39***Unlawful Dispensation Of Controlled Substances***

21 U.S.C. § 841(a)(1)

25. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

26. From on or about October 27, 2016, in Chatham County, within the Southern District of Georgia, the defendant,

FRANK H. BYNES, JR.,

who at all times hereinafter mentioned was a medical doctor licensed by the State of Georgia and registered by the United States, aided and abetted by others known and unknown, did knowingly and intentionally dispense and cause to be dispensed, to R.R. oxycodone, a Schedule II controlled substance, by issuing a prescription not for a legitimate medical purpose and not in the usual course of professional practice, through the operation of the aforementioned "pill mill," in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), and 841(b)(2):

Count	Patient	Date	Controlled Substance	Quantity	Schedule
39	R.R.	Oct. 27, 2016	Oxycodone HCL ER 40 MG	90	II

COUNT 40 THROUGH 48

Health Care Fraud

18 U.S.C. §§ 1347 and 2

27. Paragraphs 1 through 12 of the Introduction section of this Indictment are realleged and incorporated fully herein by reference.

28. Beginning not later than January 2014, the exact date being unknown, and continuing until on or about August 2017, in the Southern District of Georgia and elsewhere, the defendant herein,

FRANK H. BYNES, JR.

aided and abetted by others both known and unknown, did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Medicaid and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of Medicaid, in connection with the delivery of and payment for health care benefits, items and services.

Executions

29. To execute and attempt to execute the scheme and artifice, Defendant **BYNES**, aided and abetted by others both known and unknown, caused to be submitted false and fraudulent claims to Medicaid including but not limited to those set forth in the table below on or about the dates listed below, for controlled substances dispensed and distributed to the beneficiary identified in the "Patient" column that were prescribed by **BYNES**, when **BYNES** knew that the prescriptions were not issued for a legitimate medical purpose by an authorized individual

practitioner acting in the usual course of professional practice and, therefore, were ineligible for reimbursement:

Count	Patient	Date	Claim	Amount	Controlled Substance
40	D.S.	11/14/2015	248823379	\$59.22	Oxycodone 30 MG
41	D.S.	11/14/2015	248825110	\$10.05	Alprazolam 2 MG
42	D.S.	11/16/2015	249064156	\$108.24	Fentanyl 50MCG/HR
43	G.L.	3/3/2016	160633982961122	\$433.10	Oxycodone 10-325 MG
44	G.L.	3/4/2016	160646399136101	\$234.38	Oxycodone 15 MG
45	G.L.	3/5/2016	160653047367063	\$130.44	Amphet/Dextr 30 MG
46	G.L.	3/5/2016	160653051672171	\$242.81	Alprazolam 2 MG
47	G.L.	3/7/2016	160674754404064	\$437.72	Oxycodone 30 MG
48	G.L.	3/10/2016	160706112847173	\$117.06	Carisoprodol 350 MG

All done in violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE ALLEGATION

The allegations contained in Count One through and including Count Nine of this Indictment are hereby realleged and incorporated by reference for purposes of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(7) and Title 21, United States Code, Section 853.

Upon conviction of one or more of the Title 21 offenses set forth in Counts One through Eight of this Indictment, the defendant, **FRANK H. BYNES, JR.**, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any property (1) constituting or derived from proceeds the defendant obtained directly or indirectly as a result of said offense(s) and all property traceable to such property; and (2) any property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such offense(s), including, but not limited to \$11,239.00 in U.S. Currency seized from Georgia Laboratory Diagnostics, LLC.

Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction of Count Nine of this Indictment, charging the defendant, **FRANK H. BYNES JR** with a Federal health care offense, the Court shall order forfeiture of property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the Defendant:

- (1) cannot be located upon the exercise of due diligence;

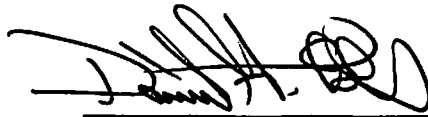
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty,

the United States shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), either standing alone or as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

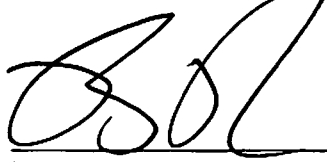
True Bill

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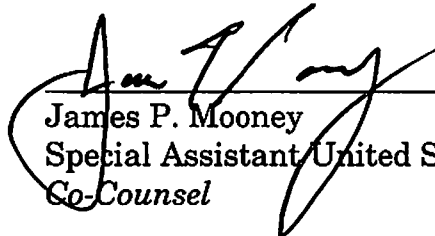
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